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Willie Kwan

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

WILLIE KWAN, an individual,) CASE NO.: 12CV1793-GPC(MDD)
Plaintiffs,)
v.) Hon. Gonzalo P. Curiel
WELLS FARGO BANK, NA,)
individually and as successor by)
merger to AMERICA'S SERVICING)
COMPANY, a National Association;)
MORTGAGE ELECTRONIC)
REGISTRATION SYSTEMS, INC., a)
Delaware Corporation;)
CARRINGTON MORTGAGE)
SERVICES, LLC, a Delaware Limited)
Liability Company; ALL PERSONS)
UNKNOWN CLAIMING ANY)
LEGAL OR EQUITABLE RIGHT,)
TITLE, ESTATE, LIEN OR)
INTEREST IN THE PROPERTY)
DESCRIBED IN THE COMPLAINT)
ADVERSE TO PLAINTIFF'S TITLE)
THERETO; and DOES 1-100,)
inclusive,)
) **DECLARATION OF BATKHAND**
) **ZOLJARGAL IN RESPONSE TO**
) **COURT'S ORDER TO SHOW**
) **CAUSE WHY THE CASE SHOULD**
) **NOT BE DISMISSED**
Complaint filed: July 20, 2012

Defendants.

DECLARATION OF BATKHAND ZOLJARGAL

I, Batkhand Zoljargal, declare as follows:

1. I am licensed to practice law in the State of California and I am an associate in The Alberts Firm, APC, and counsel of record for plaintiff, Willie Kwan (“Plaintiff”), in this action. If called as a witness, I could and would testify competently from personal knowledge as to each of the facts set forth in this Declaration. This Declaration is offered in response to the Court’s Order to Show Cause why the case should not be dismissed for failure to comply with the Court’s order.

2. On July 23, 2013, the court issued an Order Granting Defendants' Motion to Dismiss the First Amended Complaint and Denying Defendants' Motion to Strike as Moot. Plaintiff was granted leave to file a second amended complaint within 20 days of the day the order was filed (EFC No. 34).

3. On August 30, 2013, Defendants Carrington Mortgage Services, LLC, Wells Fargo Bank, N.A., and Atlantic and Pacific Foreclosure Services, LLC (“Defendants”) filed a Notice of Plaintiff’s Failure to Amend (EFC No. 36).

4. On August 30, 2013, after receiving Defendants notice our calendaring paralegal, Jesse Vera, noticed that she inadvertently mis-calendared the deadline to file the amended complaint to July 12, 2013 instead of August 12, 2013, leading to Plaintiff's failure to file the amended complaint.

5. On September 3, 2013, the court issued and set an Order to Show Cause hearing for September 27, 2013 at 1:30 p.m. in Courtroom 2D, why the Case should not be dismissed.

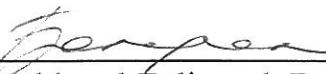
1 6. On these grounds, we respectfully request that this Court allow Plaintiff
2 to file the Second Amended Complaint (the Proposed Second Amended Complaint
3 is filed simultaneously).

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6 Executed on September 25, 2013, at Santa Ana, California.

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8 By: 

9 Batkhan Zoljargal, Declarant

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PROOF OF SERVICE

2 I am employed in the County of Orange, State of California. I am over the age
3 of 18 years and not a party to the within action. My business address is 1600 N.
4 Broadway, Suite 1010, Santa Ana, California 92706.

5 On September 26, 2013, I served the foregoing document, described as
6 **DECLARATION OF BATKHAND ZOLJARGAL IN RESPONSE TO**
7 **COURT'S ORDER TO SHOW CAUSE WHY THE CASE SHOULD NOT BE**
8 **DISMISSED** on all interested parties in this action as follows:

9 WRIGHT, FINLAY & ZAK, LLP
0 T. Robert Finlay, Esq., SBN 167280
1 rfinlay@wrightlegal.net
2 Todd E. Chvat, Esq., SBN 238282
3 tchvat@wrightlegal.net
4 4665 MacArthur Court, Suite 280
Newport Beach, CA 92660
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6 [X] **BY CM/ECF NOTICE OF ELECTRONIC FILING:** I electronically
7 filed the document(s) with the Clerk of the Court by using the CM/ECF system.
8 Participants in the case who are registered CM/ECF users will be served by the
CM/ECF system. Participants in the case who are not registered CM/ECF
users will be served by mail or by other means permitted by the court rules.

20 [X] **(FEDERAL)** I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on September 26, 2013 at Santa Ana, California.

Jesse Vera
Jesse Vera